



U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536

B2

File: EAC 99 095 52297 Office: Vermont Service Center Date:

DEC 29 2000

IN RE: Petitioner:  
Beneficiary:

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

IN BEHALF OF PETITIONER:

Public Copy

Identifying information  
prevent clearly warranted  
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Mary C. Mulrean, Acting Director  
Administrative Appeals Office

DEC 29 2000 - 05722203

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the Service regulation at 8 C.F.R. 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that she has sustained national or international acclaim at the very top level.

This petition seeks to classify the petitioner as an alien with extraordinary ability as a neurologist. The petitioner's initial submission consisted of little more than copies of the petitioner's educational and professional credentials and a letter from counsel, which states:

[The petitioner] has made her unique career by combining a research work on the very top level of [REDACTED] medical science with her extremely successful medical practice as a neurologist. Thousands of people were seeking an appointment with her in [REDACTED] waiting sometimes up to a year just to be seen.

No evidence supports counsel's claim regarding the success of the petitioner's medical practice. The assertions of counsel do not constitute evidence. Matter of Laureano, 19 I&N Dec. 1, 3 (BIA 1983); Matter of Obaiqbena, 19 I&N Dec. 533, 534 (BIA 1988); Matter of Ramirez-Sanchez, 17 I&N Dec. 503, 506 (BIA 1980).

The director requested further evidence to establish that the petitioner has earned sustained national or international acclaim. In response, counsel argues that under the [REDACTED] it was difficult for professionals to become well-known in their fields. Be that as it may, the plain wording of the statute demands sustained acclaim at the national or international level, and there is no statutory allowance for political conditions in a government which fell more than six years before the petition's 1998 filing date.

The regulation at 8 C.F.R. 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence which, counsel claims, meets the following criteria.

*Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.*

The petitioner submits a copy of a certificate in Russian, with a translation reading "This is to award [the petitioner] for her outstanding achievements in her scientific research work." The translation identifies neither the awarding entity nor the significance of the award.

The petitioner also submits a copy of "an award for her excellence in studying." Academic study is not a field of endeavor.

Other certificates recognize various positions the petitioner has held, and presentations she has made at professional gatherings. There is no indication that these acknowledgments constitute nationally recognized prizes or awards. Some of these awards are

plainly local, signed by her employers rather than by national officials.

*Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*

Counsel asserts that the petitioner is a member of the National Society of [REDACTED] and the National Society of [REDACTED]. Counsel contends "to become a member of these remarkable organizations one must have shown outstanding achievement in at least one of his research themes, win very tough competition and become certified by the association's qualification committee." The record contains no direct documentation from either of these societies even to confirm the petitioner's membership, let alone the societies' membership requirements. Without such evidence, we cannot conclude that the petitioner has fulfilled this criterion.

*Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.*

Counsel claims that the petitioner satisfies this criterion, but offers no elaboration to explain how the petitioner satisfies it.

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

Counsel observes that the petitioner graduated with honors from prestigious and selective universities. College study is not a field of endeavor, and graduating from college (no matter how prestigious the institution) does not, in and of itself, reflect or cause national or international acclaim.

In terms of specific professional accomplishments, counsel states:

[The petitioner] profoundly studied a scientific role of hyperventilation/excessive breathing in pathogenesis (origin) of [REDACTED]. She succeeded to become a leader and international recognized authority in this complex and very important area. . . .

The majority of patients, experiencing blackouts, do not connect their loss of consciousness with the way they breathe. Therefore, it was the great achievement of [the petitioner], who was the first in [the] world's medical science to make a

detailed description of such important syncope form. Results of this research have provided practicing physicians with a powerful way to correctly diagnose these forms of blackouts as well as established a revolutionary method to treat and cure thousands of patients suffering from sudden loss of consciousness.

Counsel asserts that the petitioner presented the results of her research to "the Russian National Medical Academy of Science, during its annual congress in Moscow in 1989. That presentation made her overnight well-known among Neurologists nationwide.

Counsel also states that the petitioner led the effort "to help thousands of people . . . suffering from impotence or atherosclerosis even at [a] young age often due to radiation influence on blood vessels. The solution was in a substance called PGE1 (Prostaglandin E1)." Counsel asserts that the naturally-occurring substance was first synthesized by Japanese researchers who were unable to produce a stable form of the compound. Counsel states that "an international group of medical scientists . . . succeeded to stabilize PGE1" which "resulted in [the] invention of [a] revolutionary medication." Counsel asserts that PGE1 has applications to treat a variety of vascular disorders. The record does not clarify to what extent the petitioner has been involved in developing the stabilized version of PGE1.

To attest to the importance of her work, the petitioner has submitted letters from a number of witnesses. Professor [REDACTED] director of the National Center of [REDACTED] Diseases at [REDACTED] states:

[The petitioner's] role in Russian medical science has been indeed immense. She developed several outstanding research themes of international significance, results of which have changed forever the face of Russian medicine and given clues to successful treatment of several fatal diseases.

N.N. Babenkov, director of the Nadejda Medical Center at the former Kremlin Hospital, states:

[The c]ontribution of [the petitioner] into development and administration of [PGE1] would be impossible to exaggerate. . . .

[The petitioner] served as a head of an absolutely unprecedented in Russia scientific laboratory, research results of which were so significant that [they] made [the] name of [the petitioner] well-known among wide medical community in this country. . . .

Her scientific work undoubtedly is a phenomenon in Russian medical science.

No official of [REDACTED] the company developing [REDACTED] has commented on the significance of the petitioner's role in researching the drug.

Other witnesses do not attest to any national or international reputation, stating only that the petitioner is a skilled physician and researcher who is at an early stage of a promising career.

All of the witnesses are the petitioner's former employers, professors, or collaborators. While we acknowledge the expertise of these witnesses, statements from these individuals do not demonstrate first-hand that the petitioner is well-known even among professionals who have not employed or collaborated with her (which is necessary if her reputation is truly national or international).

While the petitioner has submitted over a dozen witness letters, we cannot simply ignore the lack of direct documentation of many of the claims made in those letters. Such claims are of a nature which should be readily amenable to documentary proof. Absent such proof, we are left with letters from individuals who have worked closely with the petitioner, asserting that the petitioner is well-known among that majority of researchers and physicians who have not worked closely with her. A number of these witnesses credit the petitioner with a "revolution" in Russian medicine which, despite its purported significance, appears to have spawned little evidence of its existence.

The statute demands "extensive documentation" of the required acclaim, and the regulations accordingly require a variety of forms of objective documentation. Witness letters from former co-workers, in whatever quantity, cannot compensate for the absence of such evidence, especially when the claims contained in those letters appear to be of a kind for which confirming or supporting documentation ought to be readily available.

*Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.*

Counsel asserts that the petitioner "is the author of 65 scientific articles [and] booklets." The record documents only a handful of articles by the petitioner. One of the articles submitted is in fact a graduate thesis by the petitioner, for which there is no evidence that it was actually published. Counsel states that the petitioner has a "decent citation rate," and that the petitioner's "work has been cited and used around the globe," but the record contains no actual evidence to support this claim. We cannot

conclude from the actual evidence in the record that the petitioner's publication record places her at the top of the field.

*Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.*

Counsel asserts that the petitioner "was a ranking member of [the] Russian National [redacted] of [redacted] [and] Leader of [the] [redacted] Laboratory at [redacted]" No official from either of these entities corroborates this claim. While an official from the former Kremlin Hospital states that the petitioner was "a head of a . . . laboratory," that official does not identify the laboratory or where it was.

*Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.*

Counsel asserts that the petitioner satisfies this criterion, but the record contains no actual first-hand evidence of the petitioner's remuneration, or of general national figures against which to compare the petitioner's remuneration. The petitioner submits only witness letters which contain the vague assertion that the petitioner was well-paid for her work.

The director denied the petition, asserting that while the petitioner has won some recognition from "the Russian scientific community," the documentation in the record is not sufficient to establish that the petitioner is among the most highly acclaimed physicians or medical researchers in Russia or internationally.

On appeal, counsel states that the statute does not require both national and international acclaim. The director, in denying the petition, did not claim otherwise (although the director did note a lack of evidence of international recognition). The petitioner has earned some degree of recognition, but the burden is on the petitioner to show that this level of recognition is reserved for the very top individuals in the field.

Counsel asserts that the petitioner "is a top-level [redacted] Medical researcher in the field of Medicine, specifically Psychiatry." Earlier, counsel had characterized the petitioner as a neurologist. While neurologists and psychiatrists each deal with the brain in some matter, there is an undeniable distinction between the two fields.

Counsel notes that the petitioner has submitted letters from "professors and researchers from Russia, Canada, Israel and Germany." This characterization is misleading, because the witnesses in question are former co-workers and collaborators who

are currently located in the countries named. The dispersal of the petitioner's collaborators does not demonstrate a concomitant growth of her reputation.

The remainder of counsel's appeal statement consists of repetition of previous claims, with no new evidence offered to support those claims.

If the record contained first-hand documentary evidence to corroborate all of counsel's claims, then the petitioner would have a stronger claim to eligibility. As it stands, however, the record offers little or no support for key assertions and claims, even though scientific research is, by nature, meticulously documented and widely reported. If an individual is, indeed, among the most famous researchers in a given country, responsible for "revolutionary" or "phenomenal" discoveries, reason and experience tell us that there should be no shortage of objective documentation to establish that researcher's reputation; a claim of extraordinary ability need not rest entirely or predominantly on letters from former teachers, supervisors and co-workers. We cannot find that the petitioner has met her evidentiary burden in this proceeding.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States.

Review of the record, however, does not establish that the petitioner has distinguished herself as a neurologist to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence indicates that the petitioner has enjoyed success and earned respect in her field, but is not persuasive that the petitioner's achievements set her significantly above almost all others in that field. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.